

DOCTORAL DISSERTATION INFORMATION

Dissertation Topic: **Prophylactic Control on Economic Concentration**

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1. DISSERTATION'S ABSTRACT

Although a relatively new branch of competition law, the merger control law has become an important legal institution, coexisting with other traditional antitrust legal mechanisms. Its emergence and development stem from the need to regulate the increasingly common practice of economic concentration among businesses. In response to this practical necessity, the legal framework for economic concentration control has evolved beyond simply blocking or preventing mergers. Modern regulations now aim to address risks and potential anticompetitive impacts, ensuring that only those concentrations that may genuinely harm the market are restricted. As such, preventive control has become the dominant trend.

Vietnam's two versions of the Competition Law have both recognized the institution of economic concentration control and increasingly emphasized the preventive aspect, particularly through provisions on notification requirements, market impact assessment, and, for the first time in the VCL 2018 law, a remedial mechanism. Nevertheless, Vietnam's prophylactic control regime remains rudimentary, with several shortcomings that impair effective oversight. In contrast, jurisdictions such as the United States, the European Union, and Japan have developed comprehensive prophylactic control systems, complete in both theoretical foundations and detailed enforcement mechanisms.

This dissertation uses comparative legal analysis as the primary research method, focusing on the aforementioned three legal systems. It clarifies the prophylactic control features of economic concentration, relevant theoretical frameworks, and lessons from foreign legal systems in establishing precise and effective rules and mechanisms. The study identifies a common trend among these jurisdictions in their prophylactic approach and demonstrates how deficiencies in Vietnam's legal framework can be addressed through insights from these legal systems.

The study concludes that Vietnam must reform and improve its preventive control regime. While pre-merger notifications can continue under the current legal foundation, a detailed framework of market impact assessment must be developed to help competition authorities better evaluate the likelihood and extent of anticompetitive effects. This framework should distinguish between horizontal and non-horizontal concentrations, introduce comprehensive criteria and guidance for their application, and define the assessment process for both unilateral and coordinated effects. Furthermore, early-stage remedies should be supplemented with clear rules regarding remedy types and selection methods. Most importantly, relevant economic theories must be proficiently applied, as legal oversight cannot be separated from pertinent business theories.

While the dissertation analyzes the key legal issues underlying preventive concentration control, time and resource constraints limited the study's scope. Future research could expand on topics such as market definition, theories of harm, and models of enforcement agencies. Broadening comparative studies to other legal systems is another valuable direction to enhance the research's practical impact.

2. DISSERTATION'S FINDINGS

Building upon and selectively developing previous research, this dissertation offers the following scientific outcomes:

- It thoroughly explores the theoretical foundations and core theories concerning economic concentration and its control. The study clarifies the procedures, contents, and preventive nature of economic concentration control, distinguishing this regulatory framework from other competition law mechanisms.

- It systematically analyzes the regulations on pre-merger notification, identifying weaknesses that reduce the effectiveness of these procedures. Based on comparative legal studies, the dissertation proposes legal reforms for Vietnam.
- It comprehensively evaluates the rules on market impact assessment, especially regarding the likelihood of anticompetitive effects, exposing flaws in the current evaluation criteria and frameworks. By examining how other countries assess competitive harm on a case-by-case basis, the dissertation provides practical proposals to enhance Vietnam's legal system.
- It examines the theoretical justification and practical significance of remedial measures in merger control, identifying implementation challenges in Vietnamese law. Drawing from comparative legal experience, it proposes suitable improvements to enhance the effectiveness of such remedies.

3. DIRECTION'S CONTRIBUTION

This dissertation provides both theoretical and practical contributions:

Theoretically, it provides a comprehensive and in-depth analysis of the legal basis and current laws governing the prophylactic control of economic concentration. The study systematically clarifies the components and unique features of such control, distinguishing it from other business regulatory processes.

Using relevant theoretical frameworks, it provides a foundation for analyzing and evaluating laws related to notification, impact assessment, and remedial measures. It assesses the current Vietnamese legal system in general and for each specific activity in detail, proving the necessity for improvement and suggesting reforms.

Practically, it evaluates the implementation of the legal framework and identifies practical issues. Using comparative legal methods, it deeply analyzes experiences from three major jurisdictions (the U.S., EU, and Japan), all of which have mature competition and merger control systems. The study integrates theories such as prior control, incipency theory, and potential competition to identify the unique demands of an effective preventive legal system. It exposes legal gaps and potential risks in Vietnam's current competition law landscape.

Based on evaluations of the effectiveness and compatibility of foreign legal tools, the dissertation proposes applicable solutions for improving Vietnam's preventive control regime. These could be consolidated into a Merger Control Guideline similar to those used abroad. Thus, the study serves as a valuable resource for legislators, scholars, and regulatory authorities involved in competition law policymaking and enforcement.

Importantly, it serves as a valuable resource for Vietnam's competition authority in reviewing merger cases. As the first systematic and in-depth study on preventive control of economic concentration in Vietnam, it provides reliable scientific insights for lawyers, businesses, consultants, and anyone interested in the subject.

While the dissertation addresses pressing legal issues currently and commingly, additional research is needed for long-term implementation, especially as Vietnam develops a more robust legal framework for preventive control. Topics for further research include exemptions from merger notification, specific methods for defining relevant markets, and the use of arbitration mechanisms to monitor compliance with remedies. The dissertation lays the groundwork for future scholarly work on these topics.

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